

Superseded 5/10/2016

17C-1-409 Allowable uses of tax increment and sales tax.

- (1)
- (a) An agency may use tax increment and sales tax proceeds received from a taxing entity:
 - (i) for any of the purposes for which the use of tax increment is authorized under this title;
 - (ii) for administrative, overhead, legal, and other operating expenses of the agency, including consultant fees and expenses under Subsection 17C-2-102(1)(b)(ii)(B) or funding for a business resource center;
 - (iii) to pay for, including financing or refinancing, all or part of:
 - (A) urban renewal activities in the project area from which the tax increment funds are collected, including environmental remediation activities occurring before or after adoption of the project area plan;
 - (B) economic development or community development activities, including environmental remediation activities occurring before or after adoption of the project area plan, in the project area from which the tax increment funds are collected;
 - (C) housing expenditures, projects, or programs as provided in Section 17C-1-411 or 17C-1-412;
 - (D) subject to Subsections (1)(c) and (6), the value of the land for and the cost of the installation and construction of any publicly owned building, facility, structure, landscaping, or other improvement within the project area from which the tax increment funds were collected; and
 - (E) subject to Subsection (1)(d), the cost of the installation of publicly owned infrastructure and improvements outside the project area from which the tax increment funds were collected if the agency board and the community legislative body determine by resolution that the publicly owned infrastructure and improvements are of benefit to the project area; or
 - (iv) in an urban renewal project area that includes some or all of an inactive industrial site and subject to Subsection (1)(f), to reimburse the Department of Transportation created under Section 72-1-201, or a public transit district created under Title 17B, Chapter 2a, Part 8, Public Transit District Act, for the cost of:
 - (A) construction of a public road, bridge, or overpass;
 - (B) relocation of a railroad track within the urban renewal project area; or
 - (C) relocation of a railroad facility within the urban renewal project area.
 - (b) The determination of the agency board and the community legislative body under Subsection (1)(a)(iii)(E) regarding benefit to the project area shall be final and conclusive.
 - (c) An agency may not use tax increment or sales tax proceeds received from a taxing entity for the purposes stated in Subsection (1)(a)(iii)(D) under an urban renewal or economic development project area plan without the consent of the community legislative body.
 - (d) An agency may not use tax increment or sales tax proceeds received from a taxing entity for the purposes stated in Subsection (1)(a)(iii)(E) under an urban renewal or economic development project area plan without the consent of the community legislative body and the taxing entity committee.
- (e)
- (i) Subject to Subsection (1)(e)(ii), an agency may loan tax increment or sales tax proceeds, or a combination of tax increment and sales tax proceeds, from a project area fund to another project area fund if:
 - (A) the agency's board approves; and
 - (B) the legislative body of each community that created the agency approves.

- (ii) An agency may not loan tax increment or sales tax proceeds, or a combination of tax increment and sales tax proceeds, under Subsection (1)(e)(i) unless the projections for the future tax increment or sales tax proceeds of the borrowing project area are sufficient to repay the loan amount prior to when the tax increment or sales tax proceeds are intended for use under the loaning project area's plan.
- (iii) If a borrowing project area's funds are not sufficient to repay a loan made under Subsection (1)(e)(i) prior to when the tax increment or sales tax proceeds are intended for use under the loaning project area's plan, the community that created the agency shall repay the loan to the loaning project area's fund prior to when the tax increment or sales tax proceeds are intended for use under the loaning project area's plan, unless the taxing entity committee adopts a resolution to waive this requirement.
- (f) Before an agency may pay any tax increment or sales tax revenue under Subsection (1)(a)(iv), the agency shall enter into an interlocal agreement defining the terms of the reimbursement with:
 - (i) the Department of Transportation; or
 - (ii) a public transit district.
- (2) Sales tax proceeds that an agency receives from another public entity are not subject to the prohibition or limitations of Title 11, Chapter 41, Prohibition on Sales and Use Tax Incentive Payments Act.
- (3) An agency may use sales tax proceeds it receives under a resolution or interlocal agreement under Section 17C-4-201 for the uses authorized in the resolution or interlocal agreement.
- (4)
 - (a) An agency may contract with the community that created the agency or another public entity to use tax increment to reimburse the cost of items authorized by this title to be paid by the agency that have been or will be paid by the community or other public entity.
 - (b) If land has been or will be acquired or the cost of an improvement has been or will be paid by another public entity and the land or improvement has been or will be leased to the community, an agency may contract with and make reimbursement from tax increment funds to the community.
- (5) An agency created by a city of the first or second class may use tax increment from one project area in another project area to pay all or part of the value of the land for and the cost of the installation and construction of a publicly or privately owned convention center or sports complex or any building, facility, structure, or other improvement related to the convention center or sports complex, including parking and infrastructure improvements, if:
 - (a) construction of the convention center or sports complex or related building, facility, structure, or other improvement is commenced on or before December 31, 2012; and
 - (b) the tax increment is pledged to pay all or part of the value of the land for and the cost of the installation and construction of the convention center or sports complex or related building, facility, structure, or other improvement.
- (6) Notwithstanding any other provision of this title, an agency may not use tax increment to construct municipal buildings unless the taxing entity committee adopts a resolution to waive this requirement.
- (7) Notwithstanding any other provision of this title, an agency may not use tax increment under an urban renewal or economic development project area plan, to pay any of the cost of the land, infrastructure, or construction of a stadium or arena constructed after March 1, 2005, unless the tax increment has been pledged for that purpose before February 15, 2005.
- (8)

- (a) An agency may not use tax increment to pay the debt service of or any other amount related to a bond issued or other obligation incurred if the bond was issued or the obligation was incurred:
 - (i) by an interlocal entity created under Title 11, Chapter 13, Interlocal Cooperation Act;
 - (ii) on or after March 30, 2009; and
 - (iii) to finance a telecommunication facility.
- (b) Subsection (8)(a) may not be construed to prohibit the refinancing, restatement, or refunding of a bond issued before March 30, 2009.